

ORIGINAL

OPEN MEETING ITEM

COMMISSIONERS
KRISTIN K. MAYES - Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP



0000103021

Executive Director

38

ARIZONA CORPORATION COMMISSION

DATE: SEPTEMBER 25, 2009

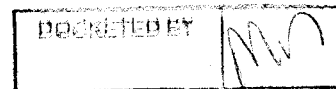
DOCKET NO: W-02824A-07-0388

Arizona Corporation Commission

DOCKETED

SEP 25 2009

TO ALL PARTIES:



Enclosed please find the recommendation of Administrative Law Judge Marc E. Stern.
The recommendation has been filed in the form of an Order on:

ICR WATER USERS ASSOCIATION, INC.
(EXTENDING TIME DEADLINE
CONTAINED IN DECISION NO. 70977)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

OCTOBER 5, 2009

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

OCTOBER 20 AND OCTOBER 21, 2009

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

RECEIVED

2009 SEP 25 A 9:36

AZ CORP COMMISSION
DOCKET CONTROL

A handwritten signature in black ink, appearing to read "Ernest G. Johnson".
ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

1200 WEST WASHINGTON STREET, PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET, TUCSON, ARIZONA 85701-1347

www.azcc.gov

This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail SABernal@azcc.gov

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 KRISTIN K. MAYES - Chairman
4 GARY PIERCE
5 PAUL NEWMAN
6 SANDRA D. KENNEDY
7 BOB STUMP

8 IN THE MATTER OF THE APPLICATION OF
9 ICR WATER USERS ASSOCIATION, INC. FOR
10 A PERMANENT RATE INCREASE.

DOCKET NO. W-02824A-07-0388

DECISION NO. _____

ORDER EXTENDING TIME
DEADLINE CONTAINED IN
DECISION NO. 70977

11 Open Meeting
12 October 20 and 21, 2009
13 Phoenix, Arizona

14 **BY THE COMMISSION:**

15 * * * * *

16 Having considered the entire record herein and being fully advised in the premises, the
17 Commission finds, concludes, and orders that:

18 **FINDINGS OF FACT**

19 1. On May 5, 2009, the Arizona Corporation Commission ("Commission") issued
20 Decision No. 70977 which approved the application of the ICR Water Users Association, Inc.
21 ("Applicant" or "Company") for a permanent rate increase and further ordered that the Company
22 file, within 120 days of the effective date of the Decision (September 2, 2009), documentation
23 establishing that the Company had secured ownership of all utility infrastructure constructed by the
24 developer to serve the subdivision known as Talking Rock Ranch ("TRR") and not previously
25 transferred to the Company.

26 2. On August 10, 2009, the Company filed a request for an extension of time, until
27 October 27, 2009, in which to file documentation establishing the transfer of ownership of all utility
28 infrastructure constructed by the developer to serve the TRR subdivision that had not been previously
transferred.

1 3. In its request for an extension, Applicant stated that, as of August 10, 2009, the
2 Company had accepted the transfer of in excess of \$6.7 million in infrastructure by means of more
3 than 20 different bills of sale since the conclusion of the hearing in this proceeding on December 3,
4 2008.

5 4. The Company stated that there is one significant piece of the utility infrastructure
6 which remains to be transferred and that consists of a new pumping/storage facility which cost \$1.1
7 million and will be used to provide service to a large portion of TRR in the future.

8 5. Before accepting transfer of this facility, the Company's representatives have observed
9 what appears to be the equipment operating abnormally and they are not fully satisfied that it is
10 functioning appropriately.

11 6. The Company is working with the developer of the subdivision to perform tests which
12 demonstrate whether the pumping/storage facility is fully operational and meets the requirements of
13 the utility.

14 7. The Company states that in order to determine whether the facility meets the
15 requirements of the utility, it requires the collaboration and agreement of the following parties:
16 engineers, the operator, vendors or manufacturers. Additionally, the Company and the developer
17 have not finalized the testing criteria and the performance which must be demonstrated.

18 8. The Company does not believe that it would be in the best interest of the utility and its
19 customers to accept the transfer of this infrastructure until a determination has been made that the
20 pumping/storage facility will meet the requirements for which it was designed.

21 9. The Company states that due to scheduling conflicts and the planned tests which are
22 necessary to make a decision on the performance of this facility, it believes that the earliest possible
23 time to confirm the proper operation of the equipment would be late August at the earliest. In
24 consideration of these factors, the Company is requesting an extension of the deadline to October 27,
25 2009, to file the necessary documentation which confirms the transfer of the infrastructure referred to
26 above.

27 10. On September 1, 2009, the Commission's Utilities Division ("Staff") filed a
28 memorandum recommending approval of an extension for the Company to meet the filing date

1 established by Decision No. 70977 for the transfer of the infrastructure not previously transferred.

2 11. According to the Staff memorandum, Staff has contacted the Company's manager,
3 Mr. Robert M. Busch, and he believes that the October 27, 2009, should be enough time for an
4 extension to satisfy the requirements of the Decision.

5 12. Staff, in its memorandum, indicates that it agrees with the Company that it should
6 inspect all infrastructure to be transferred by the developer and believes this action is appropriate.
7 Staff further states that it believes the Company's request is reasonable and, given the challenge of
8 developing and conducting tests with numerous parties, an additional small amount of time beyond
9 the Company's initial request should be approved. Staff is recommending that the Company be
10 granted an extension until December 31, 2009.

11 13. Under the circumstances, we believe that Staff's recommendation is reasonable and
12 should be adopted because it will provide the Company with sufficient time to meet the requirements
13 of the Decision in this matter.

14 CONCLUSIONS OF LAW

15 1. The Company is a public service corporation within the meaning of Article XV of the
16 Arizona Constitution and A.R.S. §§ 40-250 and 40-251.

17 2. The Commission has jurisdiction over the Company and the subject matter of the
18 extension request addressed herein.

19 3. Staff's recommendation is reasonable and should be adopted.

20 ...

21 ...

22 ...

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...

ORDER

IT IS THEREFORE ORDERED that ICR Water Users Association, Inc. shall be granted an extension of time, until December 31, 2009, to file copies of the documentation establishing that the transfer of all utility infrastructure constructed to serve Talking Rock Ranch not previously transferred to the Company has been transferred as previously ordered in Decision No. 70977.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2009.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

MES:db

1
2 SERVICE LIST FOR:

ICR WATER USERS ASSOCIATION, INC.

3 DOCKET NO.:

W-02824A-07-0388

4 Robert M. Busch
5 ICR WATER USERS ASSOCIATION, INC.
6 P.O. Box 5669
Chino Valley, Arizona 86323-0466

7 Jeffrey W. Crockett
8 Robert J. Metli
9 Marcie A. Shuman
10 SNELL & WILMER, L.L.P.
One Arizona Center
400 East Van Buren Street
Phoenix, Arizona 85004-2202
Attorneys for ICR Water Users Association, Inc.

11 Dayne Taylor
12 13868 North Grey Bears Trail
Prescott, Arizona 86305-1516

13 Jay L. Shapiro
14 FENNEMORE CRAIG, P.C.
15 3003 North Central Avenue, Suite 2600
Phoenix, Arizona 85012-2913
Attorneys for Talking Rock Golf Course, LLC

16 Janice Alward, Chief Counsel
17 Legal Division
18 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007

19 Steve Olea, Director
20 Utilities Division
21 ARIZONA CORPORATION COMMISSION
1200 West Washington Street
Phoenix, Arizona 85007